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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,005

09/26/2007

Paul Teichert

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23413 7590 09/16/2010  
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EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

NOTIFICATION DATE

DELIVERY MODE

09/16/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,005	<b>Applicant(s)</b> TEICHERT, PAUL	
	<b>Examiner</b> COLLEEN M. QUINN	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 78-100 is/are pending in the application.
- 4a) Of the above claim(s) 82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 78-81 and 83-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Election/Restrictions***

Claim 82 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, Species I (figures 1-4, specifically figure 4) there being no allowable generic or linking claim. Election of Species VI, figures 16-24 was made **without** traverse in the reply filed on July 1<sup>st</sup>, 2010, in which the applicant asserted all claims 78-100 were readable on Species VI. However, upon review, the examiner noticed claim 82 is directed to seating for at least one individual, which would be readable under Species I, as a seating option is disclosed in figure 4. Therefore, claim 82 is withdrawn. Claims 78-81 and 83-100 have been examined.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 89-91 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable one skilled in the art to use the alignment arrangement. Page 30 of the specification, with reference to figures 17 & 18, hardly explains how the catch element of the guiding means is operated or how the guide means actually work with the catch element. The specification is rather vague on what

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exactly manipulates the catch element 266, or what it manipulates, and only suggests that is connected to the guiding means in a way that allows it to move along the guiding means. Appropriate correction is required. No new matter should be entered.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 83, 85, 86, 89-94 and 97-100 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims each contain at least one “means” or “means for” recitation and it is unclear if the applicant is invoking 35 USC 112 sixth paragraph as each of the means do not meet the below criteria:

A claim limitation is presumed to invoke 35 U.S.C. 112, sixth paragraph, if it meets the 3-prong analysis set forth in MPEP 2181, subsection L:

1. The claim limitation must use the phrase “means for” or “step for”;
2. The phrase “means for” or “step for” recited in the claim must be modified by functional language; and
3. The phrase “means for” or “step for” recited in the claim must not be modified by sufficient structure, material, or acts for achieving the specified function.

If the applicant intends to invoke 35 USC 112 sixth paragraph for a claim with a “means for” recitation he must make sure it meets the above three prong analysis and it must also be clearly linked to the specification and state on the record that he is invoking 35 USC 112 sixth paragraph for that claim.

Claims 89-91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant claims the structure is aligned by “withdrawing the catch member along the guiding means”, suggesting the catch member is removed or taken away from the guiding means, which does not appear to be the case. The applicants specification, page 30, with references to figures 17 & 18, appear to explain that the catch is somehow just move along the guiding means, which is different than the catch being “withdrawn”. It appears the applicant means the catch is moved in relation to the guiding means, or moved with respect to, but not withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 78-81, 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colditz et al. (US 6,856,663) in view of Wilson (US 2,336,432) as best understood in light of the above rejections.

Colditz et al. disclose a device (38; figure 2) for enabling access to a structure above ground level (figure 1), the device comprising a first endless frame structure (58) defining an opening (48), wherein at least part of the endless frame structure forms a

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track portion (figure 2), the track portion being able to guide an, in relation to the track portion, movable object (50) along the track portion (figure 2); the device further comprising a second endless frame structure (52) defining an opening and being aligned with the first endless frame structure (figures 2-4); wherein the first endless frame structure forms a track (figures 2-4); wherein the object comprises a work platform (50) adapted to carry one or more individuals; wherein the first endless frame structure can be an elongated (elliptical) structure (col. 3, lines 12-13) and wherein the device is adapted to assist individuals in performing inspection, work, repair etc. on a structure above ground level (figures 1-4). Colditz et al. does not disclose the device to be liftable or lowerable in relation to the structure, control means for lifting/lowering or that the device could be adapted for performing work on a wind turbine.

However, Wilson teaches a device (figure 1) for enabling access to a structure above ground level (figure 1) by lifting and/or lowering the device in relation to the structure (figure 1), the device being lifted and lowered by control means (118, 120) and wherein the device comprises an elongated frame structure (95) defining an opening (figure 11) for situating the device around the elevated structure (figure 1), such that the device is adaptable to assist individuals with performing work, repair etc, on a blade of a wind turbine. Although Wilson does not disclose the lifting/lowering control means to comprise an electric motor, hydraulic or pneumatic means, Wilson does teach the frame (95) to be lifted/lowered with the cable 118 and pulley 120 and “convenient manipulation to raise and lower the platform” and the Examiner takes Official Notice that one of ordinary skill in the art would recognize that at least an electric motor would be an

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obvious convenient manipulator for lifting and lowering the frame with the chain and pulley as motors and electric winches are well known in the art for manipulating and operating pulley and lifting systems on industrial devices and that any electric motor or equivalent thereof would at least have a start and stop control means in order to control the operation of the lifting/lowering.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the device of Colditz et al. with lifting/lowering means and control means for the device as taught by Wilson, being arranged such that it is adaptable to work on the blade of a wind turbine, in order to provide a more adaptable, versatile and easily operated above ground maintenance device.

Claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Colditz et al. and Wilson as applied to claims 78-81 and 84-87 above, and further in view of Saxonmeyer (US 3,960,242) as best understood in light of the above rejections.

Colditz et al. do not disclose control means for controlling the position of the movable object/platform in relation to the track.

However, Saxonmeyer teaches a device for (41,46, 49,50; figure 2) for working on a structure (20) above ground level (figure 1), wherein the device comprises a first frame (41) comprising a track portion (42) supporting a movable object/platform (49) movable in relation to the first frame (figures 1-3 & 6) and wherein the movable object/platform (49) comprise control means (79) for positioning the movable object in relation to the track, providing independent control for the platform.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the movable object of Colditz et al. with control means for positioning the movable object in relation to the track portion, as taught by Saxonmeyer in order to provide the worker and platform with independent control for moving the platform.

Claims 88-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colditz et al. and Wilson as applied to claims 78-81 and 84-87 above, and further in view of Dudley (US 860,359) as best understood in light of the above rejections. Neither Colditz et al. nor Wilson disclose an arrangement for aligning the structure with the opening on the device, or docking means on the device.

However, Dudley teaches a device (figures 1 & 2) for accessing a structure (chimneys, spires, monuments, etc; figures 1& 2) above ground level; wherein the device comprises a first frame (14) defining an opening (figure 2) for surrounding the structure (figures 1& 2), and comprising an arrangement for aligning the structure with the opening defined by the first frame; wherein the alignment arrangement comprises a first displaceable arm (7) having guiding means(1, 4), the first displaceable arm being adapted to be brought from a first to a second position when the device is to be aligned with the structure (page 2, lines 3-11), the first displaceable arm being, in its second position, capable of bringing a catch element (5, 6) into contact with the structure via its guiding means, and bringing the device in approximate or complete alignment with the structure by moving the catch member with respect to the guiding means while the catch member is in contact with the structure (figures 1& 2 & page 2, line 3-11); further



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comprising a second displaceable arm (another of arms 7) having guiding means (another set of 1, 4), the second displaceable arm being adapted to be brought from a first to a second position when the device is to be aligned with the structure (same operations as first), the first and second displaceable arms being, in their second position, capable of bringing a catch element (5, 6) into contact with the structure via their guiding means, and bringing the device in approximate or complete alignment with the structure by withdrawing the catch members along their guiding means while the catch member is in contact with the structure (figures 1 & 2 & page 2, lines 3-11); wherein the first and second arms are pivotably mounted on first and a second support elements (2), respectively wherein the first and second support elements are pivotably mounted on an endless frame structure (figure 2); further comprising rotatably mounted docking means (arranged in the opening defined by an endless frame structure, the rotatably mounted docking means (21-26; figure 5) being adapted to fixate the structure in relation to the device when the structure has been brought into the opening defined by said endless frame structure (figures 1, 2 & 5); wherein a total of at least five rotatably mounted docking means are arranged in the opening defined by the endless frame structure (figure 2); the docking arrangement further comprising a pair of flexible belts (figure 5), each belt being arranged between a rigid end point and a belt tightener (figures 2 & 7), the belt tighteners and the end points being arranged on said endless frame structure (figures 2 & 7), the belt tighteners being adapted to tighten the belts by bringing them from a relaxed state to a tightened state in order to fixate the structure in

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relation to the device (Figures 2 & 7), providing aligning means and docking means for positioning and holding the device in position about the structure.

Therefore it would have been obvious to one of ordinary skill in the art to provide the device of Colditz et al. and Wilson with an alignment arrangement and docking means as taught by Dudley in order to provide a device that can be more readily centered and positioned about the above ground structure in order to securely align and hold the device while being used by workers.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLLEEN M. QUINN whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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